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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,301	11/24/2003	Kevin Richard McCrory	3291.2.4	4127
28049	7590	09/22/2005	EXAMINER	
PATE PIERCE & BAIRD 215 SOUTH STATE STREET, SUITE 550 PARKSIDE TOWER SALT LAKE CITY, UT 84111			GREENHUT, CHARLES N	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/720,301	MCCRORY ET AL.
	Examiner Charles N. Greenhut	Art Unit 3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-30 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 24 November 2003 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/21/04.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**I. Drawings**

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 240, 241.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “receptacle” referenced in claims 13, 14, 25 and 26 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

**II. Specification**

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o).

1.1. With respect to claim 7, and 29 the elements “a front support” and “a rear support” lack sufficient antecedent basis in the specification to adequately define the scope of these terms.

### **III. Claim Rejections - 35 USC § 112**

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 14, 26 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1.1. With respect to claims 14 and 26, it is unclear how “the receptacle is open below”.

1.2. With respect to claim 23, the term “selectively and substantially fixedly securing the vehicle” is contradictory and should read, “selectively substantially fixedly securing the vehicle”.

### **IV. Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claim(s) 1-4, 11-20, and 23-29 is/are rejected under 35 U.S.C. 102(b) as being anticipated by BRADLEY (US 948,038).
2. With respect to claim 1, BRADLEY discloses a vehicle, a door selectively engageable with a frame, externally supporting the frame, disengaging the door from the frame (Fig. 3), and unloading cargo (Col. 1 Li. 35 et seq.).
3. With respect to claim 2, BRADLEY additionally inherently discloses cargo having a weight substantially greater than the bearing capacity of the frame disengaged from the door, i.e., with the side door closed the vehicle of BRADLEY could hold a substantially greater amount of rock, ore or coal (page 1 lines 35-40).
4. With respect to claim 3, BRADLEY additionally discloses an upper and lower frame member, the door having an upper member hingedly attached to the upper frame member, and a lower edge selectively engaged with the lower frame member.
5. With respect to claim 4, BRADLEY additionally discloses exerting a vertically upward force on the lower frame member.
6. With respect to claim 11, BRADLEY discloses a vehicle, a frame, a door, a platform, a bearing member, a base, a platform actuator to rotate the bearing member and vehicle relative to the base.
7. With respect to claim 12, BRADLEY additionally discloses an upper and lower frame member, the door having an upper member hingedly attached to the upper frame member, and a lower edge selectively engaged with the lower frame member.
8. With respect to claim 13, BRADLEY additionally discloses a catch (9) secured to the lower edge of the door, and a receptacle (P<sup>4</sup>) positioned to selectively receive the catch.

9. With respect to claim 14, as best understood by examiner, BRADLEY additionally discloses a receptacle that is open below such that upward movement is required to engage the catch with the receptacle.
10. With respect to claim 15, BRADLEY additionally discloses an external support.
11. With respect to claim 16, BRADLEY additionally discloses an external support that engages and supports the lower member.
12. With respect to claim 17, BRADLEY additionally discloses a door actuator, e.g., gravity.
13. With respect to claim 18, BRADLEY additionally discloses an anchor selectively securing the vehicle to the bearing member (O).
14. With respect to claim 19, BRADLEY additionally teaches a front and rear wheel assembly beneath the lower frame member and spaced apart, a front support proximate the front wheel assembly to selectively engage the door to exert an upward force thereon and a rear support positioned proximate the rear wheel assembly to selectively engage the door to exert an upward force thereon.
15. With respect to claim 20, BRADLEY additionally discloses an agitator (though not identical to applicants “agitator,” the entire upper dumping frame of BRADLEY can be considered “an agitator connected to oscillate the vehicle and aid unloading of cargo.”)
16. With respect to claim 23, BRADLEY discloses a vehicle, a frame, a door pivotally suspended and selectively engageable, a latching system, a lower member insufficiently strong and stiff to support cargo when not engaged, a platform, a bearing member, a base, an actuator to selectively rotate the bearing member and vehicle.
17. With respect to claim 24, BRADLEY additionally discloses a support pad.

18. With respect to claim 25, as best understood by examiner, BRADLEY additionally discloses a catch and a receptacle.
19. With respect to claim 26, as best understood by examiner, BRADLEY additionally discloses the receptacle open below.
20. With respect to claim 27, BRADLEY additionally discloses a door actuator.
21. With respect to claim 28, BRADLEY additionally discloses an anchor selectively substantially fixedly securing the vehicle.
22. With respect to claim 29, as best understood by examiner, BRADLEY additionally teaches a front and rear wheel assembly beneath the lower frame member and spaced apart, a front support proximate the front wheel assembly to selectively engage the door to exert an upward force thereon and a rear support positioned proximate the rear wheel assembly to selectively engage the door to exert an upward force thereon.

#### **V. Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim(s) 5-10 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over BRADLEY in view of PROPST (US 3,542,220).
  - 1.1. With respect to claim 5, BRADLEY fails to teach translating the door vertically upward to move the lower edge into engagement with the lower frame. PROPST teaches translating the door vertically upward to move the lower edge into

engagement with the lower frame (Col. 3 Li 14). It would have been obvious to one of ordinary skill in the art to modify BRADLEY with the latching step of PROPST in order to facilitate selectively engaging the door with the frame.

1.2. With respect to claim 6, BRADLEY additionally teaches unloading cargo by rotating the vehicle in the vertical-lateral plane.

1.3. With respect to claim 7, BRADLEY additionally teaches a front and rear wheel assembly beneath the lower frame member and spaced apart, a front support proximate the front wheel assembly to selectively engage the door to exert an upward force thereon and a rear support positioned proximate the rear wheel assembly to selectively engage the door to exert an upward force thereon (P<sup>4</sup>).

1.4. With respect to claim 8, BRADLEY additionally teaches selectively engaging, by the door, front and rear supports.

1.5. With respect to claim 9, BRADLEY additionally teaches a bearing surface to support the vehicle thereon and anchoring the vehicle to the bearing surface (O).

1.6. With respect to claim 10, BRADLEY additionally teaches rotating the bearing surface relative to a base supporting the bearing surface and fixed with respect to the earth.

2. Claim(s) 21 and 30 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over BRADLEY in view of VINCENT (US 3,396,859).

2.1. With respect to claim 21, BRADLEY fails to teach an insulator. VINCENT teaches an insulator. It would have been obvious to one of ordinary skill in the art to modify

BRADLEY with the insulator of VINCENT in order to attenuate shock and/or vibration to the base resulting from movement of the vehicle.

2.2. With respect to claim 30, BRADLEY additionally teaches a support member (K') extendable from the bearing member, and an agitator. BRADLEY fails to teach an insulator. VINCENT teaches an insulator. It would have been obvious to one of ordinary skill in the art to modify BRADLEY with the insulator of VINCENT in order to attenuate shock and/or vibration to the base resulting from movement of the vehicle.

3. Claim(s) 22 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over BRADLEY in view of CHOSY (US 3,066,953)

3.1. With respect to claim 22, BRADLEY additionally teaches a second vehicle storing cargo and a third vehicle towing the first and second vehicles. BRADLEY fails to teach a B-train configuration. CHOSY teaches a B-train configuration. It would have been obvious to one of ordinary skill in the art to modify BRADLEY with the B-train configuration of CHOSY in order to increase load capacity while improving vehicle stability and decreasing the vehicle's minimum turn radius.

#### **VI. Conclusion**

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.

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3. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
4. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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